ing the judicial history of the amendment, and for discovering abuses and suggesting remedies that challenge serious consideration.

JOHN H. RUSSELL.

*National Supremacy: Treaty Power versus State Power.* By E. S. CORWIN. (New York: Henry Holt and Company, 1913. Pp. 322.)

"National Supremacy," the title of Mr. Corwin's book on the treaty power, is somewhat misleading, for as the author states in his preface, the main purpose of the study is to investigate the relation of the national treaty power to state power. Yet, he would seem to justify his very broad title by explaining that an opportunity was afforded to sketch the general history of the doctrine of national supremacy, that could hardly be put aside. Mr. Corwin has utilized this opportunity in an admirable way, and it may truthfully be said of his treatise that few books of anything like the same size afford such an excellent compendium of the history and growth of our constitutional law. One cannot read this little volume carefully without obtaining much valuable knowledge, not only of the treaty power, but of the commerce clause, of the national taxing power, and in fact, of all the powers of the national government in their relation to the powers of the States.

The arrangement of the book suffers perhaps a little from lack of conciseness, but, again, this is justified when we consider the scope of the thesis, and the historical treatment that is necessary. The book evidences great research and considerable novelty of both thought and expression. Needless to say, the author is extremely federalistic in his viewpoint. One need read but a few pages of the first chapter, to realize that the supremacy of treaties is to be emphatically upheld throughout the book. This being so, the author very properly does not attempt to lay down definite limitations upon the ever-increasing scope of the treaty power, but, subject to some few limitations which are known to exist by reason of judicial precedent—such as that new territory may be acquired, but not brought into the Union, by treaty, and that a treaty may not appropriate money, or bind congress indefeasibly—he argues for unlimited power. "The treaty power is not defined and controlled by the reserved powers of the States, but these are often defined and controlled by it," says Mr. Corwin. "The term 'reserved powers of the States' can *never* be used with propriety as indicating a *restriction* upon the powers assigned by the constitution to the national government.

It *can* be used with *logical*, though hardly with *rhetorical*, propriety to indicate the obvious fact that the powers of congress, fairly construed, do not extend to all the recognized ends of legislation, but that many of these, simply by virtue of this plain inadequacy of the national legislative powers for them, fall exclusively to the States.'

That there are no reserved powers of the States against *any* power of the United States is of course, true. But this is not to say that the national legislative powers may themselves override the reserved powers of the States, because the latter within their given spheres are just as inviolable as are the former. The dual nature of our government is ever present to be reckoned with. Thus, Mr. Corwin would seem to be pressing his federalistic doctrine too far, when for example, in considering those indestructible precedents in our constitutional law, the cases of McCulloch v. Maryland and Collector v. Day, he asks the question, "If the national government's implied power to charter banks is paramount to the States' power of taxation, why, then, should not its express power of taxation be paramount to any state power whatever?" The obvious answer, of course, is that *no* implied or expressed powers, no matter where vested, can operate upon things which are not properly within their sphere of operation. Strictly state instrumentalities are no more within the sphere of operation of national taxation than is intra-state commerce within the sphere of operation of the commerce clause of the federal constitution. The conception of a dominant national, and a servient state power is incompatible with our form of government, in relation to all matters control over which is reserved to the States, because by this reservation the state power is plenary. But there is, necessarily, a difference between the treaty power, and the legislative powers of the national government, with reference to state power, on account of the fact that no questions of co-equal rights arise under the treaty power. It must be both exclusive and supreme because it is a power to deal with *parties*, while all other powers granted to the national government, or reserved to the States, are powers to deal with *subjects*. From the very nature of international negotiations, it is impossible to express definitely the limitations of the subject matter of such negotiations. The most that can be said is that a treaty must only contain provisions which in the usual and normal intercourse of nations may properly become the subject of treaties. International law is a progressive science, and whereas to have provided by treaty for co-education of whites and Japanese, for example, might have seemed improper one hundred years ago, we cannot feel quite the same today.

By their adoption of the federal constitution, the individual States renounced finally their individual sovereignty in all foreign relations, and intrusted this sovereignty to the national government. Nor is the scope of the treaty power lessened by the fact that under our constitution, treaties stand no higher than acts of congress, and may therefore, be abrogated by congress, should it see fit to do so. For it is one thing to say that a nation may not be able *to fulfill* its contracts with other nations and quite a different thing to say that it lacks the inherent power *to make* those contracts. In short, there is no provision in the federal constitution parallel in scope, because none is parallel in purpose, with the provision intrusting the President and the senate with the exclusive power of international negotiation. Therefore, a comparison of the grant of this power with the grant of other powers to the national government is generally futile and academic, to say the least. For example, the treaty power resting upon grant from the constitution, it is naturally to be supposed that, like the other powers granted to the national government by that instrument, it may not violate the fifth amendment. Yet, national preservation being the greatest objective of the treaty power, we cannot say that, as a war measure, a treaty might not do things which, just as in the case of Lincoln's emancipation proclamation, could not be justified on other grounds.

Mr. Corwin's book is a valuable addition to our constitutional literature, and must rank, with Mr. Burr's recent admirable work, far in advance, both as to substance and form, of all other treatises on the subject. WILLIAM F. COLEMAN.

*Problems in Political Evolution.* By RAYMOND GARFIELD GETTELL. (Boston: Ginn and Company, 1914. Pp. 400.)

The author characterizes his book in these sentences taken from the preface: "This volume aims to settle no controverted questions. Its province is to state problems, not to solve them. Its purpose is to show the relativity of political methods and the multiplicity of forces involved in each phase of political evolution; . . . . Such a study necessitates numerous broad generalizations, few of which are entirely above criticism."

Within these frankly admitted limitations the author has certainly accomplished what he set out to do. His statements, while comprehensive and somewhat attenuated in spots, are readily understood, for his treatment is general and even elementary throughout. The meta-